

**IN THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN  
DISTRICT OF OHIO EASTERN  
DIVISION**

Administrator Chelsea O'Brien,

Plaintiff,

v.

Civil Action 2:22-cv-2805  
Judge James L. Graham  
Magistrate Judge Chelsey M.  
Vascura

Cecil A. Morrison, IV,

Defendant.

**MOTION FOR LEAVE TO FILE MOTION FOR SUMMARY JUDGMENT  
AFTER DISPOSITIVE MOTIONS CUTOFF**

Now comes the Plaintiff, by and through counsel, pursuant to Civ.R. 6(b)(1)(B) and respectfully requests leave to file a motion for summary judgment beyond the dispositive motions cutoff date which was on February 28, 2025, six days ago. This request is not made to create undue delay or unfair prejudice. Plaintiff's counsel has discussed this motion with Defense counsel who has indicated Defendant will oppose this motion.

The reason for this motion is that Plaintiff's counsel had intended to request an extension of this deadline before the deadline but was pressed with both medical issues and a press of work including another matter coming to trial with briefing due and failed to file the motion sooner. Plaintiff's counsel has two invasive medical procedures coming up and has had doctor's appointments for those. Additionally, given that the parties were scheduled for mediation, Plaintiff's counsel's attention was focused on preparing the settlement demand and otherwise preparing for mediation, which is scheduled for

tomorrow March 7<sup>th</sup>, 2025.

Finally, this request is made only six days after the deadline passed and will not prejudice the Defense or cause delay, especially in light of the Defendant having filed a motion for summary judgment such that this Court will be dealing with dispositive motions practice in this case whether Plaintiff files one or not.

Plaintiff's motion for summary judgment would assert that collateral estoppel prevents the Defendant from relitigating issues already decided by the Defendant's conviction for Negligent Homicide for shooting and killing the Plaintiff in *State v. Cecil Morrison*, Athens County Common Pleas Court case no. 22CR0115. These arguments would include that the Judgement in Defendant's criminal case collaterally estops Defendant from arguing he was not negligent, and from arguing defendant was justified in shooting and killing Mr. Whitmer.

Therefore, under Civ.R. 6(b)(1)(B) and due to excusable neglect, the Plaintiff respectfully requests an extension of time to file a motion for summary judgment until March 28<sup>th</sup>, 2025, or if the Court believes a date that is sooner would be more appropriate, to whatever date the Court finds reasonable.

Respectfully submitted,

/s/ Sky Pettey  
Sky Pettey – 0072041  
Attorney for the Plaintiff

Lavelle and Rittenhouse, LLC  
449 East State Street, First Floor  
Athens, OH 45701  
(740) 593-3348  
(740) 594-3343  
[sky@johnplavelle.com](mailto:sky@johnplavelle.com)

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that the foregoing MOTION FOR LEAVE TO FILE MOTION FOR SUMMARY JUDGMENT AFTER DISPOSITIVE MOTIONS CUTOFF was served by email upon counsel for the Defendant this 6<sup>th</sup> day of March, 2025 as follows:

Mr. Frank J. Reed  
[freed@fbtlaw.com](mailto:freed@fbtlaw.com)

Mr. Charles B. Galvin  
[cgalvin@fbtlaw.com](mailto:cgalvin@fbtlaw.com)

/s/ Sky Pettey

Mr. Sky Pettey – 0072041